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Regulated Industries Complaints Office
Department of Commerce and Consumer Affairs
State of Hawaii
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DEPT. OF COMMERCE
AND CONSUMER AFFAIRS
2006 SEP -7 P 2: 01

REGULATED INDUSTRIES COMPLAINTS OFFICE

Attorney for Department of Commerce
and Consumer Affairs

CONTRACTORS LICENSE BOARD
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Contractor's License of) CLB 2006-67-L
)
JOHN VIDINHA, JR., doing business as) SETTLEMENT AGREEMENT PRIOR TO
JOHN VIDINHA, JR. SEPTIC SYSTEMS,) FILING OF PETITION FOR DISCIPLINARY
) ACTION AND BOARD'S FINAL ORDER
Respondent.)
_____)

DEPT. OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

2006 SEP 13 A 10: 49

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2006 SEP 25 P 3: 11

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

Respondent JOHN VIDINHA, JR., doing business as JOHN VIDINHA, JR. SEPTIC
SYSTEMS ("Respondent"), and the Department of Commerce and Consumer Affairs, through
its Regulated Industries Complaints Office ("RICO"), through its undersigned attorney, enter into
this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. Respondent is licensed by the Contractors License Board (the "Board") as a C-9
(cesspool) specialty contractor's license under License Number C 4097. Said license was issued
on July 1, 1967 and currently has an expiration date of September 30, 2006.

2. The last known address for Respondent is P.O. Box 414, Lawai, Hawaii 96765.

3. RICO alleges that Respondent permitted his son, Dominic Vidinha, to use Respondent's contractor's license to contract to dig a cesspool, install drain line stub, and form up lid with rebar at a property located in Keaau, Hawaii, for payment of \$1,400.00.

4. The foregoing allegations, if proven, would constitute violations of the following statutes governing the conduct of contractors licensed in the State of Hawaii: Hawaii Revised Statutes ("HRS") § 444-9.3 (aiding and abetting).

5. The Board has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that he has the right to be represented by an attorney of his choosing in this matter and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely and voluntarily and under no coercion or duress.

3. Respondent has been informed of his right to have a hearing to determine the issues in RICO's investigation. Pursuant to HRS § 91-9(d), Respondent voluntarily waives his right to a hearing and agrees to a disposition of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent being at all times relevant herein licensed as a contractor by the Board acknowledges that he is subject to penalties including but not limited to, revocation, suspension or limitation of his license and civil fines, if the foregoing violations are proven at hearing.

5. Respondent admits to the veracity of the allegations and that his acts constitute a violation of § 444-9.3 (aiding and abetting), governing the conduct of contractors licensed in the State of Hawaii.

6. Respondent enters into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

7. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. CLB 2006-67-L.

C. TERMS OF SETTLEMENT:

1. Administrative fine. Respondent agrees to pay a fine in the amount of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00). Said payment shall be made by **cashier's check or money order made payable to "State of Hawaii - Compliance Resolution Fund"** and mailed to the Regulated Industries Complaints Office, Attn: Wendy J. Utsumi, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this fully executed Settlement Agreement is returned to RICO.

2. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph C.1 above, Respondent's license shall be automatically revoked for a period of five (5) years upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of his licensure to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. Upon completion of the revocation period, Respondent understands that he will need to apply to the Board for a new license pursuant to and subject to the requirements and conditions set forth in HRS §§ 92-17, 436B-21, and all other applicable laws and rules.

3. Possible further sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondent violates any provision of the statutes or rules governing the conduct of contractors in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

4. Approval of the Board. Respondent agrees that, except for the representations, agreements and covenants contained in Paragraphs C.5, C.6, C.7 and C.8 below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

5. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither he nor any attorney that he may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against him on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

6. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

7. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement

Agreement, and Respondent is not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

8. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: _____, Hawaii, **[September 5, 2006]**, 2006.
(CITY)

/s/ JOHN VIDINHA

JOHN VIDINHA, JR., dba
JOHN VIDINHA, JR. SEPTIC SYSTEMS
Respondent

DATED: Honolulu, Hawaii, **[September 7, 2006]**.

/s/ WENDY J. UTSUMI

WENDY J. UTSUMI
Attorney for Department of Commerce and
Consumer Affairs

IN THE MATTER OF THE CONTRACTOR'S LICENSE OF JOHN VIDINHA, JR., DOING
BUSINESS AS JOHN VIDINHA, JR. SEPTIC SYSTEMS; SETTLEMENT AGREEMENT
PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL
ORDER; CLB 2006-67-L

APPROVED AND SO ORDERED:
CONTRACTORS LICENSE BOARD
STATE OF HAWAII

/s/ TADY T. ARISUMI

TADY T. ARISUMI
Chairperson

[September 22, 2006]

DATE

/s/ F. M. SCOTTY ANDERSON

F. M. SCOTTY ANDERSON
Vice Chairperson

/s/ ANACLETO ALCANTRA

ANACLETO "LITO"
ALCANTRA

/s/ NEAL ARITA

NEAL ARITA

WILLIAM R. BROWN

ERIC CARSON

/s/ JOSEPH S. KINDRICH, II

JOSEPH S. KINDRICH, II

/s/ RANDALL B.C. LAU

RANDALL B. C. LAU

/s/ AUDREY E.J. NG

AUDREY E.J. NG, ESQ.

/s/ RONALD K. OSHIRO

RONALD K. OSHIRO

/s/ DENNY R. SADOWSKI

DENNY R. SADOWSKI

THOMAS B. VINCENT

/s/ GERALD YAMADA

GERALD YAMADA

STATE OF HAWAII

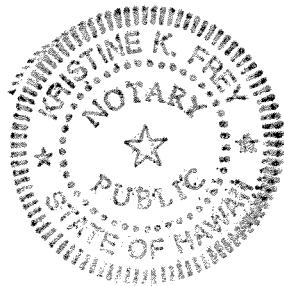
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) SS.

COUNTY OF HAWAII

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On this 5th day of September, 2006, before me personally appeared JOHN VIDINHA, JR., to me known to be the person described and who executed the foregoing instrument and acknowledged the same as his free act and deed.



[Signature redacted]

Name: KRISTINE K. FREY

Notary Public – State of Hawaii

My commission expires: 5/26/07